



DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal without Change of the Registration of Money Services Businesses Regulation and FinCEN Form 107

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comments on the proposed renewal, without change, to an information collection requirement contained in FinCEN's regulations and FinCEN Form 107 - Registration of Money Services Business (RMSB). Under the regulations, money services businesses (MSBs) must register with FinCEN using FinCEN Form 107, renew their registration every two years, and maintain a list of their agents. This request for comments is made pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments are welcome and must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Comments may be submitted by any of the following methods:

- Federal E-rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN-2023-0005 and the Office of Management and Budget (OMB) control number 1506-0013.

- Mail: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2023-0005 and OMB control number 1506-0013.

Please submit comments by one method only. Comments will be reviewed consistent with the PRA and applicable OMB regulations and guidance. All comments submitted in

response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at 1-800-767-2825 or electronically at frc@fincen.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Provisions

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Foreign Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Public Law 107–56 (October 26, 2001), and other legislation, including the Anti-Money Laundering Act of 2020 (AML Act).¹ The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1960, and 31 U.S.C. 5311–5314 and 5316–5336, and notes thereto, with implementing regulations at 31 CFR chapter X.

The BSA authorizes the Secretary of the Treasury (the “Secretary”), *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement AML programs and compliance procedures.² Regulations implementing the BSA appear at 31 CFR chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.³

¹ The AML Act was enacted as Division F, sections 6001-6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283, 134 Stat. 3388 (2021).

² Section 358 of the USA PATRIOT Act expanded the purpose of the BSA, by including a reference to reports and records “that have a high degree of usefulness in intelligence or counterintelligence activities to protect against international terrorism.” Section 6101 of the AML Act added language further expanding the purpose of the BSA.

³ Treasury Order 180-01 (Jan. 14, 2020).

Under 31 U.S.C. 5330 and its implementing regulation (31 CFR 1022.380), MSBs⁴ must file an initial registration form with FinCEN, renew their registration every two years, re-register under certain circumstances, and maintain a list of their agents.

Registration

Each MSB, with a few exceptions, must register with the FinCEN. The information required by 31 U.S.C 5330 and any other information required by FinCEN Form 107 must be reported in the manner and to the extent required by FinCEN Form 107.⁵ The registration form for the initial registration period must be filed on or before the end of the 180-day period beginning on the day following the date the business is established.⁶ The initial registration period is the two-calendar year period beginning with the calendar year in which the MSB is first required to be registered.⁷ MSBs must renew their registrations, with the first renewal due on or before the last day of the initial registration period (December 31st) and subsequent renewals due every two years thereafter.⁸ MSBs must re-register with FinCEN not later than 180 days after the following: a change in ownership that requires the MSB to be re-registered under state law, transfer of 10 percent voting or equity interest, or 50 percent increase in agents.⁹ MSBs must maintain a copy of any registration form filed under 31 CFR 1022.380 at a location in the United States for a period of five years.¹⁰

Maintenance of an Agent List

A person that is an MSB solely because that person serves as an agent of another MSB is not required to register.¹¹ However, MSBs are required to prepare and maintain a list of their

⁴ See 31 CFR 1010.100(ff).

⁵ See 31 CFR 1022.380(b)(1)(i); Registration of Money Services Business (RMSB) Electronic Filing Instructions. Release Date July 2014 – Version 1.0.
https://www.fincen.gov/sites/default/files/shared/FinCENRMSB_ElectronicFilingInstructions.pdf.

⁶ See 31 CFR 1022.380(b)(3).

⁷ See 31 CFR 1022.380(b)(2).

⁸ See 31 CFR 1022.380(b)(2), (b)(3).

⁹ See 31 CFR 1022.380(b)(4).

¹⁰ See 31 CFR 1010.430(d); 31 CFR 1022.380(b)(1)(iii).

¹¹ See 31 CFR 1022.380(a)(3).

agents.¹² The list must be revised each January 1 for the immediately preceding 12-month period.¹³ The list is not filed with the registration form but must be maintained at a branch office or location in the United States reported on the registration form.¹⁴ MSBs must make the list of agents available, upon request, to FinCEN, an appropriate law enforcement agency, and the examination function of the Internal Revenue Service, in its capacity as delegate of BSA examination authority.¹⁵

II. Paperwork Reduction Act (PRA)¹⁶

Title: Registration of Money Services Businesses (31 CFR 1022.380).

OMB Number: 1506-0013.

Form Number: FinCEN Form 107 - RMSB.

Abstract: FinCEN is issuing this notice to renew the OMB control number for the registration of money services business regulations at 31 CFR 1022.380 and FinCEN Form 107 - RMSB.

Type of Review: Renewal without change of a currently approved information collection.

Affected Public: Business or other for-profit institutions.

Initial Registration

Frequency: As required.

Estimated Burden per Respondent: FinCEN estimates that the hourly burden of filing and maintaining a copy of the initial RMSB form is 1 hour and 10 minutes. (1 hour to fill out the form and file it, and 10 minutes to save the form electronically and print out a copy to maintain). FinCEN stipulates that the information required to be included on the form is basic information MSBs need to maintain to conduct business. The e-filing system prompts MSBs to save the registration form after submission.

¹² See 31 CFR 1022.380(d).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Pub. L. 104-13, 44 U.S.C. 3506(c)(2)(A).

Estimated Number of Respondents: 3,603 MSBs.¹⁷

Estimated Total Annual Burden Hours: 4,204 hours.¹⁸

Registration Renewal

Frequency: Every two years.

Estimated Burden per Respondent: FinCEN estimates that the hourly burden of filing and maintaining a copy of the renewal of the RMSB form is 40 minutes (30 minutes to revise the form and file it, and 10 minutes to save the form electronically and print out a copy to maintain). FinCEN stipulates that the information required to be included on the form is basic information MSBs need to maintain to conduct business. In addition, FinCEN's e-filing system allows MSBs to open a previously filed RMSB form and the electronic form is pre-populated with the information from the prior filing. MSBs can amend Part I by selecting item 1b (renewal) and submit the form. MSBs can update any information required on the form prior to submitting the form electronically. The e-filing system prompts MSBs to save the registration form after submission.

Estimated Number of Respondents: 8,429 MSBs.¹⁹

Estimated Total Annual Burden Hours: 5,619 hours.²⁰

Re-Registration

Frequency: As required.

Estimated Burden per Respondent: FinCEN estimates that the hourly burden of filing and maintaining a copy of the re-registration of the RMSB form is 40 minutes (30 minutes to revise the form and file it, and 10 minutes to save the form electronically and print out a copy to maintain). FinCEN stipulates that the information required to be included on the form is basic information MSBs need to maintain to conduct business. In addition, FinCEN's e-filing system

¹⁷ FinCEN looked at the number of initial RMSBs filed in each of the calendar years 2018 through 2022. The average number of initial filings for the period of five years is 3,603.

¹⁸ 3,603 MSBs multiplied by 70 minutes and converted to hours is 4,204 hours.

¹⁹ FinCEN looked at the number of RMSB renewals filed in each of the calendar years 2018 through 2022. The average number of renewals for the period of five years is 8,429.

²⁰ 8,429 MSBs multiplied by 40 minutes and converted to hours equals 5,619 hours.

allows MSBs to open a previously filed RMSB form and the electronic form is pre-populated with the information from the prior filing. MSBs can amend Part I by selecting item 1d (re-registration) and selecting the appropriate response in item 2. MSBs can amend the applicable information required on the form and submit it electronically. The e-filing system prompts MSBs to save the registration form after submission.

Estimated Number of Respondents: 201 MSBs.²¹

Estimated Total Annual Burden Hours: 134 hours.²²

Maintenance of Agent List

Frequency: Annually.

Estimated Burden: FinCEN estimates that the hourly burden of drafting an agent list and revising it annually is 30 minutes per MSB. FinCEN stipulates that the information required to be included on an agent list is basic information MSBs need to maintain to conduct business. FinCEN does not require the MSB to maintain the list in any particular format; therefore, the MSB can leverage its business records to create and revise the list.

Estimated Number of Respondents: 26,276.²³

Estimated Total Annual Burden Hours: 13,138 hours.²⁴

Total Annual Burden Hours for this Information Collection: 23,095 hours.²⁵

Records required to be retained under the BSA must be retained for five years.

Generally, information reported pursuant to the BSA is confidential or otherwise protected from disclosure but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments:

²¹ FinCEN looked at the number of RMSBs re-registered in each of the calendar years 2018 through 2022. The average number of re-registrations for the period of five years is 201.

²² 201 MSBs multiplied by 40 minutes and converted to hours is 134 hours.

²³ As of March 3, 2023 there were 26,276 MSBs registered with FinCEN.

²⁴ 26,276 MSBs multiplied by 30 minutes and converted to hours is 13,138 hours.

²⁵ The grand total annual burden hours for this information collection represents the total annual burden hours to file initial RMSBs, renewals, and re-registrations, and to maintain agent lists (4,204 + 5,619 + 134 + 13,138 = 23,095).

Specific request for comments

- Is there a public source FinCEN can reference to better estimate the number of entities operating as agent-MSBs?

General request for comments

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs, costs of operation and maintenance, and cost involved in purchasing services.

Himamauli Das,
Acting Director,
Financial Crimes Enforcement Network.